



Backfilling Temporary Vacancies

Commissioner's Instruction 50

Statement of intent

To set how public sector bodies backfill temporary vacancies.

Scope and application

This instruction applies to public sector employing authorities as defined in section 3 of the *Public Sector Management Act 1994* (PSM Act) other than when appointing chief executive officers, chief employees and ministerial officers and is to be read in conjunction with the principles set out in Part 2 of the PSM Act, applicable legislation and industrial instruments.

The Public Sector Recruitment Standard as contained in this instruction establishes the minimum standards of merit, equity and probity to be met when public sector bodies backfill vacancies.

References

- [Public Sector Management Act 1994](#)
- [Privacy and Responsible Information Sharing Act 2024](#)
- [Public Sector Management \(General\) Regulations 1994](#)
- [Public Sector Management \(Redeployment and Redundancy\) Regulations 2014](#)
- [Public Sector Management \(Breaches of Public Sector Standards\) Regulations 2005](#)
- [Public sector awards and agreements](#)
- [Breach of standard claims](#)
- [Commissioner's Instruction 5: Publishing a Public Sector Notice](#)
- [Commissioner's Instruction 12: Redeployment and Redundancy](#)
- [Commissioner's Instruction 33: Determining Remuneration of Specialist Positions](#)
- [Commissioner's Instruction 40: Ethical Foundations](#)
- [Commissioner's Instruction 48: Recruitment, Selection and Appointment to Permanent Vacancies](#)
- [Commissioner's Instruction 49: Recruitment, Selection and Appointment to Fixed Term Vacancies](#)

Definitions

Acting: Direction or agreement with an employee to temporarily perform the functions and duties of another office, post or position in a public sector body which is vacant, whether temporarily or permanently, and which does not alter the employee's underlying employment status.

Applicant: Person being considered to fill a vacancy.

Appointment: Act of assigning a suitable applicant to a vacancy.

Assessment: Process of considering an applicant's suitability for a vacancy.

Backfill: Filling for a fixed period a position that has a current occupant who is temporarily absent, on leave or assigned elsewhere.

Fixed term: Appointment for a specific term up to 5 years.

Recruitment: Act of searching for and identifying applicants.

Secondment: Temporary assignment of an employee to another body and which does not alter their underlying employment status.

Successful applicant: Suitable applicant to be offered an appointment to the vacancy.

Suitable applicant: Applicant assessed as meeting the suitability requirements.

Suitability requirements:

Up to 12 months: Ability to competently discharge the duties required considering organisational outcomes and the applicant's interests.

More than 12 months: Skills, experience and attributes necessary to competently discharge the duties of the office, post or position against identified criteria in the following areas:

- Eligibility: Qualifications, professional licence, right to work (citizenship, residency, relevant visa)
- Pre-employment conditions: Integrity screening, police check, working with children check as required
- Job requirements: Functions and tasks to be performed
- Personal attributes: Behaviour and ethical attributes now and in the future
- Organisational requirements: Diversity and other outcomes determined by the public sector body.

Instruction

1. Public sector bodies must establish procedures that:
 - a. are consistent with the Public Sector Recruitment Standard
 - b. encourage efficient decisions and outcomes in accordance with section 8(1) of the PSM Act
 - c. prioritise permanent employment ensuring stability.
2. Public sector bodies can backfill temporary vacancies through fixed term contract, acting and secondment arrangements as set out in legislative and industrial instruments.

3. When backfilling temporary vacancies for any period over 12 months in total, public sector bodies must apply [Commissioner's Instruction 49: Recruitment, Selection and Appointment to Fixed Term Vacancies](#) and state the possibility of permanency.
4. Suitability requirements for backfilling temporary vacancies up to 12 months do not need to be the same as when appointing to permanent and fixed term vacancies.
5. The Public Sector Commissioner can exempt public sector bodies from all or some of the requirements of this instruction.

Public Sector Recruitment Standard

When filling vacancies, we comply with the minimum standards of merit, equity and probity and do not recruit, select or appoint based on nepotism or bias.

Merit: Suitable people are appointed.

We:

- set suitability requirements of positions
- screen applicants to ensure they meet the required standards of integrity
- assess applicants against the suitability requirements
- only appoint applicants who meet the suitability requirements.

Equity: Applicants are treated fairly and in accordance with their circumstances.

We:

- use recruitment and assessment processes that enable access for applicants from diverse backgrounds and adjust processes accordingly
- inform applicants of these processes in advance
- give applicants access to information relevant to the vacancies
- inform applicants of outcome decisions, offer them feedback and advise them of avenues for review.

Probity: Processes and decisions are robust and deliver transparent outcomes.

We:

- establish and apply procedures for recruitment
- keep records of decisions in line with the [State Records Act 2000](#) and ensure they are capable of review
- make decisions that are free from bias; and identify, declare and manage conflicts of interest
- consider information relevant to each vacancy when making decisions.